

The Retailers' Occupation Tax is based upon the actual gross receipts from retail sales. See 86 Ill. Adm. Code 130.101. (This is a GIL).

March 20, 2000

Dear Xxxxx:

This letter is in response to your letter dated February 17, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I am a state and local tax consultant and have a couple of questions regarding state audits and overpayment reviews, or 'reverse audits'. An overpayment review, or 'reverse audit', is usually performed by a tax consulting firm. It entails many of the same procedures applied by an auditor who is auditing to assess tax. However, a reverse audit applies such audit procedures to uncover sales and use tax overpayments.

There are often situations, due to a high volume of transactions, that cause a detailed audit to be inefficient, if not impossible. For such instances does Illinois provide any type of audit sampling?

1. Does Illinois provide audit sampling for state auditors in assessing tax? In other words, through random sampling, block sampling, or other form of sampling, can the auditors calculate an error rate and project that rate to determine their assessment?
2. Does Illinois provide audit sampling for consultants to use in overpayment reviews? If so, are there specific sampling methods that are to be followed?

Thank you in advance for your letter ruling concerning these inquiries. Please e-mail me or call me if you need additional information at #####.

Regarding Department audit procedures, the specific details are confidential and are not released to the public as a matter of policy. However, as a general proposition, Illinois Revenue Auditors conduct both detail and sample audits. Traditionally, the sample audits have entailed testing sample months within the audit period. The current trend employs the use of statistical sampling methods. The State of Illinois can use statistical sampling in arriving at an audit assessment even where records exist that are adequate to perform a detailed audit. Taxpayers do not have to consent to the use of statistical sampling.

The State of Illinois will not accept claims for credit that are based upon statistical samples. The Retailers' Occupation Tax is based upon the actual gross receipts from retail sales in Illinois. See 86 Ill. Adm. Code 130.101. The Use Tax is based upon the actual selling price of the tangible personal property that is involved. See 86 Ill. Adm. Code 150.105. Therefore, in a reverse audit to determine overpayment of tax, sampling is inadequate to prove an overpayment of tax to the Department in order to receive a claim for credit. For your information we have included 86 Ill. Adm. Code 130.1501 regarding claims for credit.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.